

**AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
JUNE 8, 2010**

Attachments to the items below can be viewed at the following link:

http://www.dep.state.fl.us/secretary/cab/public_notices.htm

Substitute Page

Item 1 Minutes

Submittal of the Minutes from the April 13, 2010 Cabinet Meeting.

(See Attachment 1, Pages 1-7)

RECOMMEND APPROVAL

Substitute Item 2 Trust for Public Land Option Agreement/CSX Transportation, Inc./ OGT/Newberry-Trenton Rail Trail Project/Nature Coast State Trail Extension

REQUEST: Consideration of an option agreement to acquire 146.20 acres within the Office of Greenways and Trails' Newberry-Trenton Rail Trail project from The Trust for Public Land.

COUNTY: Gilchrist

LOCATION: Section 31, Township 09 South, Range 16 East; Sections 35, and 36, Township 9 South, Range 15 East; Sections 01, 02, 03, 09, and 16, Township 10 South, Range 15 East; Sections 02, 05, and 06, Township 10 South, Range 16 East

CONSIDERATION: \$2,725,000

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		Allen (12/22/09)	Wingo (10/13/09)				
TPL/CSX (9.33 miles)	146.20	\$2,787,200	\$2,601,000	\$2,787,200	unknown*	\$2,725,000** (98%)	120 days after BOT approval

* The railroad corridor was assembled more than ten years ago.

** \$18,639 per acre.

STAFF REMARKS: The Newberry-Trenton Rail Trail project has been identified on the Department of Environmental Protection's (DEP) Office of Greenways and Trails' (OGT) Florida Forever approved acquisition list. DEP's Division of State Lands (DSL), on behalf of OGT, negotiated this acquisition under the Florida Forever Greenways and Trails program. The project contains 191.92 acres, of which 146.20 are under agreement to be acquired. If the Board of Trustees approves this agreement, 45.72 acres or 24 percent of the project will remain to be acquired.

Project Description

The Newberry-Trenton Rail Trail project is a 13-mile extension of the existing 31.7-mile Nature Coast State Trail, a State Designated and National Recreation Trail. The project applicant was the City of Newberry. This proposed acquisition would begin in Trenton at the Trenton Depot

Substitute Item 2, cont.

trailhead. The terminus of this acquisition is approximately three miles shy of the town of Newberry. The corridor is approximately 130-foot wide for much of its length. This acquisition was proposed for 10.33 miles of the 13-mile corridor; however there is a gap area of approximately one mile wherein CSX Transportation, Inc. (CSX) lacked sufficient title interest to convey the corridor in fee simple. The gap area has been excluded from this purchase, however CSX intends to quitclaim its interest in the gap area to the Board of Trustees at no cost. OGT and TPL have been in communication with Gilchrist County to find an alternate means of connectivity to bypass this gap. The County has assured OGT that they will provide a continuous uninterrupted trail in this gap area utilizing County road right-of-way. This multi-use trail will traverse in a relatively undeveloped portion of Gilchrist County, known as the Wacasassa Flats. The important high priority connection of this proposed acquisition to the Nature Coast State Trail would provide an excellent opportunity to experience the Sunshine State “off the beaten path” and provide a scenic experience for trail users through three counties.

The Trust for Public Land (TPL) has entered into an option agreement with CSX to purchase the property contained within the Newberry-Trenton project. TPL will convey title to the property to the Board of Trustees if this acquisition is approved.

There is a covenant in the deed from CSX to TPL concerning the future potential use of the property. The covenant restricts TPL or its successors from selling portions of the property for residential use. The covenant reads as follows:

“Grantee acknowledges that the Premises conveyed hereunder has been historically used for railroad industrial operations and is being conveyed for use as a recreational trail. Grantee, by acceptance of this deed, hereby covenants that it, its successors, heirs, legal representatives or assigns shall not use the Premises for (a) any residential purpose of any kind or nature (residential use shall be defined broadly to include, without limitation, any use of the Premises by individuals or families for purposes of personal living, dwelling, or overnight accommodations, whether such uses are in single family residences, apartments, duplexes, or other multiple residential dwellings, trailers, trailer parks, camping sites, motels, hotels, or any other dwelling use of any kind), or (b) any public or private school, day care, or any organized long-term or short term child care of any kind. By acceptance of this deed, Grantee further covenants that it, its successors, heirs, legal representatives or assigns shall not use the groundwater underneath the Premises for human consumption, irrigation, or other purposes.”

The appraisers took the covenant into consideration during their valuation of the property.

This property is being acquired using federal acquisition procedures in accordance with the Federal Intermodal Surface Transportation Efficiency Act and the Code of Federal Regulations Title 49. On June 22, 1999, the Board of Trustees approved a recommendation to substitute the land acquisition procedures of the Federal Highway Administration for the state of Florida’s procedures outlined in section 259.041, F.S., for the projects that qualify for federal enhancement funding, as administered by the Department of Transportation. Under the federal guidelines, DEP is required to disclose the fair market value of the parcel at the beginning of negotiations.

Substitute Item 2, cont.

Mortgages and Liens/Encumbrances

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Closing Information

A title insurance commitment, survey and an environmental site assessment will be provided by the purchaser prior to closing.

Florida's Statewide Greenways & Trails System

The major components of the Florida Statewide Greenways and Trails Program are established by a legislatively adopted plan. This plan was developed through the work and consensus of a broad range of interested persons such as recreational users, conservation groups, and private landowners. The foundation for the plan's development consisted of various legislative actions and efforts that occurred throughout the more than 20 years prior to its adoption in 1999. OGT in coordination with the Florida Greenways and Trails Council (Council), is charged with overseeing the establishment of the statewide system of greenways and trails.

One important component of the Florida Greenways and Trails Program is the identification of ecological and recreational connections (opportunity areas) throughout the state. These opportunity areas have been identified, mapped and prioritized, and form the basis for developing and evaluating acquisition projects.

OGT Application Process

Applicants apply for OGT's 1.5 percent annual allocation of Florida Forever funding through an application process. The applicants must meet criteria specified by chapter 260, F.S., and detailed by rule in chapter 62S-1, F.A.C. Applications are initially reviewed by OGT staff and biologists and then forwarded to the Council for review and approval. The Council consists of 21 members, as outlined in chapter 260, F.S. At a public meeting, the Council evaluates the projects before recommending a final acquisition list. The list is then forwarded to the Secretary of DEP for final approval.

In order to be eligible, applicants must apply for and receive a Certificate of Eligibility. A Certificate of Eligibility is approved by OGT staff if: (1) the proposed project meets the definition of a greenway or trail, as defined in chapter 260, F.S.; (2) the planned project corridor is located within or adjacent to at least one opportunity segment on one or more of the Recreational Prioritization Maps; (3) at least 80 percent of the planned project corridor has a landowner willing to negotiate; and (4) the project has a willing manager. Once the Certificate of Eligibility is approved, the project application may be submitted to OGT during an open cycle period. Proposed projects are evaluated based on the following criteria: (1) the rank (high, medium, or low) assigned to the project based on the Recreational Prioritization Maps; (2) percentage of any matching funds available or committed to the project; (3) the percentage of acreage that is proposed for less-than-fee acquisition; (4) ecological values; (5) recreational attributes; and (6) historical and cultural resources.

Substitute Item 2, cont.

Management

This corridor will be managed by OGT as part of the Nature Coast State Trail.

Comprehensive Plan

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 2, Pages 1-39)

RECOMMEND APPROVAL

Substitute Item 3 City of Punta Gorda Recommended Consolidated Intent/Lease/Mooring Field

REQUEST: Consideration of an application for a ten-year sovereignty submerged lands lease containing 1,038,400 square feet (23.84 acres), more or less, for a proposed 42-buoy managed, municipal mooring field.

APPLICANT: City of Punta Gorda (City)
Lease No. 080346065
ERP No. 08-0128597-014

LOCATION: 100 E Retta Esplanade
Punta Gorda, Charlotte County
Section 06, Township 41 South, Range 23 East
Aquatic Preserve: No
Waterbody/Classification: Peace River, Class III, not approved for shellfish harvesting
Designated Manatee County: No
Manatee Aggregation Area: No
Manatee Protection Speed Zone: No

CONSIDERATION: The project qualifies for a waiver of lease fees pursuant to section 18-21.011(1)(b)7, F.A.C., which states that fees shall be waived for government entities that are either not-for-profit or non-profit uses when the revenues are used for operation and maintenance of the structure and the activity is consistent with the public purposes of the City organization and is not an adjunct to a commercial endeavor.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under part IV of chapter 373, F.S., and the authorization to use sovereignty submerged lands under chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity which require authorization to use sovereignty submerged lands.

Substitute Item 3, cont.

Project Synopsis

The City is requesting authorization for a proposed 1,038,400-square-foot (23.84 acres) mooring field with 42 mooring buoys to provide mooring for vessels up to 50 feet long. The mooring buoy structures will consist of a helical anchoring screw with suspended tethering chain affixed to an 18-inch diameter mooring buoy.

The mooring field will be open to the public, on a first-come, first-serve basis as defined in section 18-21.003(27), F.A.C. This requirement has been included as a special lease condition. Although vessel traffic in the mooring field is anticipated to be primarily by mooring field occupants, passage within and through the mooring area will be open to the general public, and passage by non-mooring field occupants will not be prohibited or restricted.

The mooring field will accommodate liveaboard vessels. A liveaboard is defined in sovereignty submerged lands leases as “a vessel docked at the facility and inhabited by a person or persons for any five consecutive days or a total of ten days within a 30 day period. If liveaboards are authorized, in no event shall such liveaboard status exceed six months within a 12 month period, nor shall any such vessel constitute a legal or primary residence.” The City understands this requirement and has agreed to comply with this requirement which will be reflected as a standard condition in the lease.

The City’s existing municipal marina (a/k/a Laishley Park Marina) will provide dockmaster facilities/amenities for the mooring field occupants, which include: a dinghy dock; convenient sewage pumpout facilities, laundry facilities, restroom and shower facilities, and waste receptacles. The City’s marina is subject to Sovereignty Submerged Lands Lease No. 080000095. The City’s marina lease was most recently modified by the Department of Environmental Protection (DEP), under delegation of authority, on April 12, 2010.

The City will install in-water uniform waterway markers to demarcate the mooring field. The signage will conform to the Florida Fish and Wildlife Conservation Commission’s (FWC) uniform marker requirements pursuant to rule 68D-23, F.A.C. This is addressed as a special approval condition.

Mooring Field Management Plan (Plan)

Unregulated mooring within the project area can potentially lead to a number of problems including: (1) damage to submerged resources, particularly seagrass beds, via anchor dragging and chain scarring; (2) navigational hazards from vessels at anchor colliding with one another; (3) abandoned and derelict vessels; and (4) uncontrolled discharge of waste. The proposed mooring field is expected to address and eliminate these issues within the mooring field boundaries through the implementation of the City’s East Mooring Field Management Plan and specific permit and lease conditions.

Substitute Item 3, cont.

The City has submitted a Plan that provides background information, design, operational rules and procedures, and objectives for the management of the mooring field through the existing City Marina Dockmaster. A special lease condition will incorporate the Plan into the lease.

The Plan will require the City to: (1) enforce the provisions of the sovereignty submerged lands lease and any permits granted; (2) provide administration for the operation, maintenance, safety, and security of the mooring field and shore side amenities (Dockmaster facilities); (3) assign moorings; (4) prepare records and reports as they relate to management of the mooring field; (5) maintain the mooring field and dockmaster facilities; and (6) ensure that all mooring field patrons execute a mooring license agreement during normal business hours, or for those vessels arriving after normal business hours, at the start of business the following day. This license agreement will bind the users to the rules and regulations as provided in the Plan. Only authorized and operational vessels, those capable of maneuvering under their own power, and those in compliance with the United States Coast Guard regulations and safety standards will be allowed to utilize the mooring field slips. Daily patrols and a daily vessel inventory by City marina staff will assist in ensuring compliance with the Plan.

Upon utilizing the mooring field buoys, all vessel operators will be required to empty their marine sanitation devices into the sewage pumpout facility located at the City marina and all Y-valves shall be locked or sealed in the non-overboard position. No pumping of sewage in any area within the mooring field will be allowed, except at the City's sewage pumpout facility at the City Marina, or into the City's sewage pumpout vessel when one is used by the City in the future. A special lease condition will require the City to implement use of a sewage pumpout vessel within two years of occupancy of the first mooring buoy in the east mooring field, or upon occupancy of the first mooring buoy in the City's proposed west mooring field, if approved by the Board of Trustees, whichever occurs first. Major repairs or refitting of vessels, including any activity that could result in a deposition of materials into the waterway, will be strictly prohibited.

As a result of the restrictions placed on the mooring field through the specific permit conditions, the Plan, and lease conditions, the mooring field is anticipated to help alleviate repetitive anchor scarring and the discharge of sewage or other contaminants, thereby protecting sovereignty submerged land resources in the leased area.

Noticing

The project has not been noticed pursuant to section 253.115, F.S., because the Board of Trustees is the only property owner within 500 feet of the proposed lease area.

Permit Summary

DEP's environmental resource permit authorizes liveboards and prohibits fueling facilities within the mooring field. Sewage pumpout facilities will be provided by the City at its municipal marina. In the future, the City plans to provide a sewage pumpout vessel for the mooring field occupants.

Substitute Item 3, cont.

Commenting Agency

Recommendations of the Fish and Wildlife Conservation Commission regarding protection of manatees have been addressed in the environmental resource permit.

Comprehensive Plan

Section 163.3194(3)(b), F.S., in summary, states that a local development approved or undertaken by a local government shall be consistent with the comprehensive plan if it meets all criteria of the plan and all other criteria enumerated by the local government. The proposed action is consistent with the adopted plan according to a resolution adopted by the City.

(See Attachment 3, Pages 1-54)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITION
AND THE SPECIAL LEASE CONDITIONS**

**Item 4 Deepwater Horizon Oil Spill Incident Status Update/Emergency Response Efforts/
BP/Gulf of Mexico**

Status update of the emergency response efforts to protect Florida's shoreline from the Deepwater Horizon oil spill incident in the Gulf of Mexico.

RECOMMEND INFORMATIONAL